

U.S. District Court
District of Rhode Island (Providence)

CRIMINAL DOCKET FOR CASE #: 04-M -114-ALL

USA v. Limbaugh
Dkt# in other court: None

CLOSED

2004-09-29 15:15

FILED

Filed: 09/29/04

Case Assigned to: Magistrate Judge David L. Martin

ROY LIMBAUGH (1)
defendant

Kevin J. Fitzgerald
[COR LD NTC pda]
Federal Defender's Office
10 Weybosset St.
Suite 300
Providence, RI 02903
528-4281

Pending Counts:

NONE

Terminated Counts:

NONE

Complaints:

NONE

U. S. Attorneys:

Andrew Reich
[COR LD NTC]
U.S. Attorney's Office
Fleet Center
50 Kennedy Plaza
8th Floor
Providence, RI 02903
528-5477

Attest to
True Copy

DAVID A. DIMARZIO

By: 
Deputy Clerk

Proceedings include all events.

1:04m 114-ALL USA v. Limbaugh

CLOSED

- 9/29/04 1 Rule 40 Documents as to Roy Limbaugh received from Massachusetts (mes) [Entry date 09/30/04]
- 9/29/04 2 CJA 23 FINANCIAL AFFIDAVIT by Roy Limbaugh; signed by Magistrate Judge David Martin (mes) [Entry date 09/30/04]
- 9/29/04 3 ENTRY of Appearance for Roy Limbaugh by Attorney Kevin J. Fitzgerald (mes) [Entry date 09/30/04]
- 9/29/04 -- Initial Appearance as to Roy Limbaugh held before Magistrate Judge David Martin. Andrew Reich for the government; Kevin Fitzgerald for the defendant; Charleen Tryhubczak for probation. Court informs defendant of pending violations in MA; Defendant waives identity hearing; Court questions defendant and the Court accepts the waiver of Rule 40; Attorneys argue detention; Court orders defendant remanded to the Custody of US Marshal for transfer to the District of MA (Defendant informed of rights.) (mes) [Entry date 09/30/04]
- 9/29/04 -- Detention hearing as to Roy Limbaugh held before Magistrate Judge David Martin. Andrew Reich for the government; Kevin Fitzgerald for the defendant; Charleen Tryhubczak for probation. Defendant remanded to custody for transfer to the District of MA (mes) [Entry date 09/30/04]
- 9/29/04 -- Removal hearing as to Roy Limbaugh held before Magistrate Judge David Martin. Andrew Reich for the government; Kevin Fitzgerald for the defendant; Charleen Tryhubczak for probation. Attorneys argue; Court orders defendant removed to the District of MA in the custody of the US Marshal (mes) [Entry date 09/30/04]
- 9/29/04 4 WAIVER of Rule 40 Hearings by Roy Limbaugh held before Magistrate Judge David Martin. Andrew Reich for the government; Kevin Fitzgerald for the defendant; Charleen Tryhubczak for probation. Court questions defendant; Defendant waives identity hearing and the Court accepts the waiver (mes) [Entry date 09/30/04]
- 9/29/04 5 ORDER as to Roy Limbaugh, for Appointment of Federal Public Defender (forwarded to all counsel of record) (mes) [Entry date 09/30/04]
- 9/29/04 6 ORDER of Removal to District of Massachusetts as to Roy Limbaugh (Signed by Magistrate Judge David L. Martin) forwarded to all counsel of record (mes) [Entry date 09/30/04]
- 9/29/04 7 ORDER OF COMMITMENT TO ANOTHER DISTRICT as to Roy Limbaugh to the District of Massachusetts (forwarded to all counsel of record) (mes) [Entry date 09/30/04]
- 9/30/04 -- ARREST (Rule 40) of Roy Limbaugh (mes) [Entry date 09/30/04]

Proceedings include all events.
1:04m 114-ALL USA v. Limbaugh

[Edit date 09/30/04]

CLOSED

9/30/04 -- CERTIFIED COPIES OF DOCUMENTS forwarded to the District of
MA as to Roy Limbaugh (mes) [Entry date 09/30/04]

United States District Court***District of Rhode Island***

UNITED STATES OF AMERICA

v.

**COMMITMENT TO ANOTHER
DISTRICT 5**

ROY LIMBAUGH

DOCKET NUMBER**MAGISTRATE JUDGE/CASE NUMBER**

District of Arrest

District of Offense

00-CR-10150-PBS

District of Arrest

1:04-M-114M

District of Offense

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☐ Indictment ☐ Information ☐ Complaint ☒ Other (specify)

charging a violation of 18 U.S.C. § 3606

DISTRICT OF OFFENSE:

Massachusetts

DESCRIPTION OF CHARGES: VIOLATION OF CONDITIONS OF SUPERVISED RELEASE

CURRENT BOND STATUS:

- ☐ Bail Fixed at _____ and conditions were not met
☒ Government moved for detention and defendant detained after hearing in District of Arrest
☐ Government moved for detention and defendant detained pending detention hearing in District of Offense
☐ Other (specify)

Representation:

☐ Retained Own Counsel☒ Federal Defender Organization☐ CJA Attorney☐ None

Interpreter Required?

☒ No☐ Yes

Language: _____

DISTRICT OF Rhode Island

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

September 30, 2004

Date

Judicial Officer / Clerk

RETURN

Attest to
True Copy

DAVID A. DIMARZIO

By: 
Deputy Clerk

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED

PLACE OF COMMITMENT

DATE DEFENDANT COMMITTED

DATE

UNITED STATES MARSHAL

(BY) DEPUTY MARSHAL

7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

vs.

ROY LIMBAUGH

)
)
)
)
)

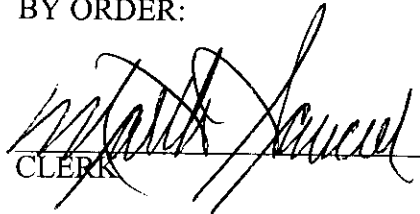
Misc. No. 1:04-M-114M

ORDER OF REMOVAL

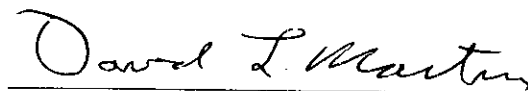
This matter came before the Court on September 29, 2004, for purposes of a hearing pursuant to Rule 40 Federal Rules of Criminal Procedure. The defendant, having been appointed counsel, knowingly and voluntarily waived his right to a hearing pursuant to Rule 40. He neither contests his identity nor the fact that he is the person named as the defendant in the Warrant of Arrest issued on March 31, 2003, from the United States District Court for the District of Massachusetts in Case No. 00-CR-10150-PBS.

WHEREFORE, it is hereby ORDERED that defendant ROY LIMBAUGH be removed to the District of Massachusetts for whatever further proceedings deemed appropriate by that Court. Defendant shall be detained pending his removal to the District of Massachusetts.

BY ORDER:


CLERK

ENTER:


DAVID L. MARTIN
United States Magistrate Judge

DATE: 9-30-04

6

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

September 29, 2004

UNITED STATES OF AMERICA

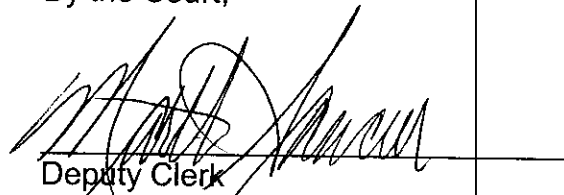
v.
ROY LIMBAUGH

1:04-M-114M

APPOINTMENT OF FEDERAL PUBLIC DEFENDER

The financial inability of the defendant to retain counsel having been determined by the Court, it is hereby ORDERED that the Federal Public Defender be appointed to represent said defendant in this cause until further order of the Court.

By the Court,

A handwritten signature in black ink, appearing to be "M. H. [unclear]", is written over a horizontal line.

Deputy Clerk

September 29, 2004

Date

cc: U.S. Attorney
Federal Public Defender
U.S. Marshal
U.S. Probation

5

United States District Court

DISTRICT OF

UNITED STATES OF AMERICA

v.

WAIVER OF RULE 40 HEARINGS (Excluding Probation Cases)

Roy Limbaugh

CASE NUMBER:

1:04-M-114M

I, Roy Limbaugh

District of

Massachusetts

, understand that in the charges are pending alleging violation of Violation of Supervised Release and that I have been arrested in this District and taken before a United States Magistrate Judge who informed me of the charge and of my right to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel, (2) request transfer of the proceedings to this district pursuant to Rule 20, Fed. R. Crim. P., in order to plead guilty, (3) an identity hearing to determine if I am the person named in the charge, and (4) a preliminary examination (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held either in this district or the district of prosecution.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

() identity hearing

() preliminary examination

(X) identity hearing and have been informed I have no right to a preliminary examination

() identity hearing but request a preliminary examination be held in the prosecuting district

and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

X Roy Limbaugh
Defendant

9-29-04

Date

K. J. [Signature]
Defense Counsel

4

AO 458 (Rev. 10/95) Appearance

United States District Court
District of Rhode Island

VS

v.

Roy Lombargh

APPEARANCE

CASE NUMBER:

1:04-M-114M

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for

Roy Lombargh

I certify that I am admitted to practice in this court.

Date

9-29-04

Signature

Print Name

Address

City

State

Zip Code

Phone Number

Fax Number

K. J. Fitzgerald

K. J. Fitzgerald 5775

10 Weybosset St.

Providence RI 02903

401-528-4281

3

FINANCIAL AFFIDAVIT

CJA 23
(Rev. 5/93)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

LOCATION NUMBER

VS.

Roy Limbaugh

PERSON REPRESENTED (Show your full name)

DOCKET NUMBERS

Magistrate

1:04 PM - 11/4 PM

District Court

Court of Appeals

CHARGE/OFFENSE (describe if applicable & check box →) ☐ Felony ☐ Misdemeanor

- ☐ Defendant - Adult
☐ Defendant - Juvenile
☐ Appellant
☐ Probation Violator
☐ Parole Violator
☐ Habeas Petitioner
☐ 2255 Petitioner
☐ Material Witness
☐ Other (Specify)

ASSETS TO QUESTIONS TO BE ANSWERED

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self Employed
		Name and address of employer: _____
		IF YES, how much do you earn per month? \$ _____ IF NO, give month and year of last employment How much did you earn per month? \$ _____
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	RECEIVED	SOURCES
CASH	Have you any cash on hand or money in savings or checking account <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____	
	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
PROPERTY	VALUE	DESCRIPTION
	IF YES, GIVE THE VALUE AND \$ _____ DESCRIBE IT _____	
		86 Chevy Van
		92 Geo Storm
		85 - Silverado wagon

OBLIGATIONS
& DEBTS

DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them	
	<input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input checked="" type="checkbox"/> SEPARATED OR DIVORCED	3		Steven Limbaugh 27 Michael Lam 26 10 - doesn't know name
DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME:	Creditors	Total Debt	Monthly Payt.

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 9/28/04

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Roy Limbaugh

2

UNITED STATES DISTRICT COURT

District of MASSACHUSETTS

UNITED STATES OF AMERICA

V.

ROY LIMBAUGH

WARRANT FOR ARREST

Case Number: 00-CR-10150-PBS

1:04-M-114M

To: The United States Marshal
and any Authorized United States OfficerYOU ARE HEREBY COMMANDED to arrest ROY LIMBAUGH
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

☐ Indictment ☐ Information ☐ Complain ☐ Order of court ☒ Violation☒ Probation Violation Petition

charging him or her (brief description of offense)

Violation of Conditions of Supervised Release

in violation of 18 United States Code, Section(s) 3606Patti B. Saris, U.S.D.J. by Robert C. Alba, Deputy Clerk
Name of Issuing OfficerDeputy Clerk
Title of Issuing Officer

Signature of Issuing Officer

March 31, 2003, at Boston, Massachusetts
Date and LocationBail fixed at \$ _____ by _____
Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

Prob12C
(7/93)

**United States District Court
for the District of Massachusetts
Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Roy Limbaugh

Case Number: 1:00-CR-10150

Name of Sentencing Judicial Officer: The Honorable Patti B. Saris, U.S. District Judge

Date of Original Sentence: 2/8/02

Original Offense: Theft of Public Funds

Original Sentence: 21 months CAG; 24 months supervised release; a \$100 Special Assessment and \$80,120.80 Restitution

Type of Supervision: Supervised Release

Date Supervision Commenced: 11/8/02

Asst. U.S. Attorney: Gregory Moffat

Defense Attorney: Tim Watkins

PETITIONING THE COURT

- ☒ To issue a warrant
☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number

- I. **Violation of Standard Condition #2: The defendant shall report to the Probation Officer as directed by the Court or the Probation Officer and shall submit a truthful and complete written report during the first five days of each month.**

Nature of Noncompliance

On 12/18/02 and 1/02/03, the defendant failed to report to the Probation Office as directed and on 12/20/02, he failed to be at his residence for a scheduled home visit. In addition, Mr. Limbaugh did not report to the office on 2/10/03 as directed via correspondence sent by both certified and regular mail to his home address. He also failed to report for an administrative hearing on 2/19/03. On both his December 2002 and January 2003 Monthly Supervision Reports, the defendant failed to report his true employment status. On his January 2003 Monthly Supervision Report, the subject indicated that he planned to move as of 2/4/03, however, he did not submit a forwarding address. To date, his whereabouts remain unknown.

PLYMOUTH OFFICE

2003 FEB 31 PM 2:17

RECEIVED
U.S. PROBATION

PLYMOUTH OFFICE

2003 MAR -3 PM 12:46

RECEIVED
U.S. PROBATION

Prob 12C

- 2 -

**Petition for Warrant or Summons
for Offender Under Supervision****II. Violation of Standard Condition # 3: The offender shall answer truthfully all inquiries by the Probation Officer and follow the instructions of the Probation Officer.****Nature of Noncompliance**

The defendant has been ordered to pay restitution in the amount of \$80,120.80. In order to determine a monthly payment, Mr. Limbaugh was directed to complete a financial statement with documentation at his initial visit and return same to the Probation Officer within one week. He failed to complete and return the documents as directed. During an office visit on 1/8/03, the defendant was once more directed to complete the financial statement and return to the Probation Officer within two weeks. Once more, the defendant failed to complete and return the forms. Finally, at a home visit on 1/21/03, this writer directed the defendant to complete the financial statement and reviewed with him the proper completion of the document. Upon receipt, this writer observed that the statement was not properly completed nor was there proper documentation attached. The Probation Officer has been unable to follow through with this directive as Mr. Limbaugh's whereabouts are currently unknown.

III. Violation of Standard Condition # 6: The offender shall notify the Probation Officer ten days prior to any change in residence or employment:**Nature of Noncompliance**

The defendant obtained employment shortly after commencing supervision in December 2002, however, he failed to inform the Probation Officer of same until 1/02/03. Most recently, the subject's whereabouts have become unknown to the Probation Officer as he reportedly moved out of his last known address and has not provided a forwarding address. On his January 2003 Monthly Supervision Report, the defendant wrote that he moved on 2/4/03 with the reason being "probation officer disrespected me in my house." To date, the Probation Officer has not been able to determine the defendant's current address despite contact with his family. It should be noted that the defendant has also defaulted on his state probation out of the Bristol County Superior Court in New Bedford, MA, and a warrant has been issued due to "whereabouts unknown."

IV. Violation of Special Condition: The defendant is to participate in mental health counseling:**Nature of Noncompliance**

The defendant failed to attend his initial appointment with his psychiatrist, Dr. Claude Curran, on 1/31/03.

Prob 12C

- 3 -

**Petition for Warrant or Summons
for Offender Under Supervision**

- V. Violation of Special Condition: The defendant is to pay restitution in the amount of \$80,120.80 to the Social Security Administration; it shall be paid in the following manner: By bank check or money order made out to Clerk, U.S. District Clerk, in a monthly amount to be determined by the U.S. Probation Officer, and sent on a monthly basis to Clerk's Office in envelopes provided.

Nature of Noncompliance

To date, the defendant has not accurately completed a financial statement which would allow the Probation Officer to determine a set monthly payment toward his special assessment and restitution. On several occasions, the defendant has made verbal and written reference to a pending law suit due to "jail abuse and false charges" filed against him. He has maintained that he will not pay any money toward his restitution until he first recovers damages from his own lawsuit. In addition, the defendant returned a letter to the office which required his signature regarding the submission of 75% of his 2002 tax refund for the purpose of paying restitution. He failed to sign the letter as directed and attached a long letter once more reiterating that he would not be making any payments and referencing a pending lawsuit. The defendant has not yet made any payments toward his special assessment or restitution.


U.S. Probation Officer Recommendation:

The term of supervision should be:

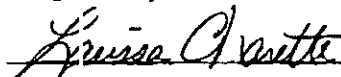
- ☒ Revoked
☐ Extended for year(s), for a total term of years.

- ☐ The conditions of supervision should be modified as follows:

Reviewed/Approved by:



Jonathan Hurtig
Officer-in-Charge

Respectfully submitted,

By 
Larissa Charette
U.S. Probation Officer
Date: 2/24/03

THE COURT ORDERS

- ☐ No Action
☒ The Issuance of a Warrant
☐ The Issuance of a Summons
☐ Other


Signature of Judicial Officer

2/28/03
Date

Prob12C
(7/91)

United States District Court
for the District of Massachusetts

COPY

ADDENDUM TO PETITION DATED 2/24/03

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Roy Linbaugh

Case Number: 1:00-CR-10150

Name of Sentencing Judicial Officer: The Honorable Patti B. Saris, U.S. District Judge

Date of Original Sentence: 2/8/02

Original Offense: Theft of Public Funds

Original Sentence: 21 months CAG; 24 months supervised release; a \$100 Special Assessment and \$80,120.80 Restitution

Type of Supervision: Supervised Release

Date Supervision Commenced: 11/8/02

Asst. U.S. Attorney: Gregory Moffat

Defense Attorney: Tim Watkins

PETITIONING THE COURT

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number

- VI. Violation of Mandatory Condition #1: While on Supervised Release, the offender shall not commit another Federal, State or local crime and shall not illegally possess a controlled substance.

Nature of Noncompliance

On 3/15/03, officers of the Tiverton, Rhode Island Police Department responded to Rte. 177 at the state line to assist the Westport Police Department with a possible armed and dangerous felon, later identified as the defendant. Once dispatch confirmed that the suspect was wanted, Tiverton Officers approached and ordered the suspect out of the vehicle. The defendant refused to exit his vehicle and proceeded to start the car and swerve at the Tiverton Officers. Tiverton Officers discharged their weapons at the defendant's rear left tire. The subject then led the officers on a chase finally stopping in front of the Tiverton Sign Shop. Tiverton Officers surrounded the vehicle and ordered the defendant out of the car. After a brief standoff, officers were forced to break the windows of the defendant's vehicle so that cap stun could be utilized to help gain compliance of him. Officers were able to extract the defendant from the passenger side of the vehicle. During this altercation, the defendant attempted to access a twelve inch knife located in a sheath on his belt. Officers safely took the defendant into custody. Once in custody, the defendant kicked out the rear windows of cruiser #45. After the defendant was in custody, his vehicle was towed and escorted to the Tiverton Police Department. Officers searched the vehicle and found both schedule 2 and schedule 4 controlled substances including Oxycodone, Valium, Diazepam and Oxycotin. Officers also found three additional knives and five boxcutters. On 3/15/03, the defendant was arraigned at the Newport, RI, District Court and charged

Prob 12C

- 2 -

**Petition for Warrant or Summons
for Offender Under Supervision**

with the following counts: Unlawful Possession of a Controlled Substance, to wit, Oxycontin and Oxycodone; Resisting Legal or Illegal Arrest; Unlawful Possession of a Controlled Substance, to wit, Valium, Diazepam, and Lorazepam; Assault with a Dangerous Weapon, to wit, a knife with a blade more than three inches long; Carrying a Concealed Weapon, to wit, a knife with a blade more than three inches long; Eluding a Law Enforcement Officer with a Motor Vehicle; Assault and Battery with a Dangerous Weapon Resulting in Serious Bodily Injury; and Destruction of Property, to wit, Tiverton Police Cruiser #45. He is being held on \$25,000 cash bail and is scheduled to return to Court on 4/17/03 for a pre-arraignment conference date. On 3/20/03, the subject again appeared in Newport, RI, District Court for arraignment on a fugitive complaint regarding a charge of Assault to Rape and Threat to Commit Crime on 5/6/97, for which he was on supervision in Bristol Superior Court. The matter was scheduled for a hearing on 4/18/03. At this time, the defendant is being held at the Adult Correctional Institute in Cranston, RI.

Please see copies of police reports attached.

U.S. Probation Officer Recommendation:

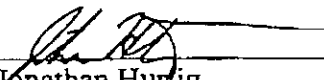
The term of supervision should be:

☒ Revoked

☐ Extended for year(s), for a total term of years.

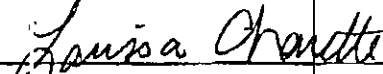
☐ The conditions of supervision should be modified as follows:

Reviewed/Approved by:


Jonathan Hurig
Officer-in-Charge

Respectfully submitted,

By


Larissa Charette
U.S. Probation Officer
Date: 3/25/03

THE COURT ORDERS

- ☐ No Action
☐ The Issuance of a Warrant
☐ The Issuance of a Summons
☐ Other

Signature of Judicial Officer

Date